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Attorneys at Law

April 21, 2023

VIA ECF

Honorable Gregory H. Woods
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Zivkovic v. Valbella at the Park LLC*
No.: 22-cv-7334 (GHW)

Dear Judge Woods,

We represent Plaintiff Pavle Zivkovic in the above-referenced matter. We write pursuant to Rule 2.E of the Court's Individual Rules of Practice concerning Plaintiff's anticipated request for an order to show cause as to why non-party Oak Grove Road LLC should not be compelled to respond to Plaintiff's subpoena to produce documents.

Rule 2.E of this Court's Individual Rules requires parties to request pre-motion conferences prior to the filing of any motions. However, because this request involves a subpoena on a non-party, Plaintiff respectfully requests the Court's permission to simply file a request for an order to show cause, which will then be serve on Oak Grove Road LLC.

I. Background.

In June 2022, this Court entered a judgment in Docket No. 17-cv-553, of more than \$5.5 million against, *inter alia*, Laura Christy Midtown LLC ("Valbella Midtown") and its owner, David Ghatanfard. *See* Dkt. No. 17-cv-553, ECF No. 324 (Judgment). Approximately one month before the April 2022 jury trial in that action, the Valbella Midtown restaurant closed for business. A new restaurant Valbella at the Park ("VATP"), then opened a few blocks away in early March 2022. Plaintiff, the Class Representative in the earlier action, brought this lawsuit seeking to hold VATP liable for the judgment owed by Valbella Midtown under a theory of alter ego/successor liability. *See* ECF No. 5 (Compl.).

II. The Oak Grove Road LLC Subpoena and its Failure to Comply.

Through the course of discovery in this action, Plaintiff learned that Oak Grove Road LLC – which was wholly owned by Ghatanfard at the time of trial in the underlying lawsuit and now is partially owned by him – is one of two entities that are members of Defendant Valbella at the Park LLC. On or about February 2, 2023, Plaintiff, pursuant to Rule 45 of the Federal Rules of Civil Procedure, served Oak Grove Road LLC via the New York Secretary of State with a subpoena to produce certain documents relevant to Plaintiff's prosecution of this action. The subpoena set a

date of production of March 2, 2023. As of the date of this letter, Plaintiff has not received any response or any documents from Oak Grove Road LLC.

Accordingly, Plaintiff seeks the Court's permission to request an order to show cause why the subpoena should not be enforced, and Oak Grove Road LLC compelled to respond.

We thank the Court for its attention to this matter.

Respectfully submitted,

JOSEPH & KIRSCHENBAUM LLP

/s/ Lucas Buzzard

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cc: All Counsel of Record (via ECF)